

DRAFT

**TOWN OF GILBERT
PLANNING COMMISSION REGULAR MEETING
COUNCIL CHAMBERS
50 E. CIVIC CENTER DRIVE
GILBERT, AZ
SEPTEMBER 6, 2017**

COMMISSION PRESENT: Chairman Kristofer Sippel
Vice Chairman Brian Andersen
Commissioner Carl Bloomfield (arrived at 5:08 p.m.)
Commissioner David Cavenee
Commissioner Greg Froehlich
Commissioner Brian Johns (arrived at 5:08 p.m.)
Commissioner Joshua Oehler
Alternate Commissioner Seth Banda
Alternate Commissioner Mary Harris

COMMISSION ABSENT: None

STAFF PRESENT: Ashlee MacDonald, Planner II
Nichole McCarty, Planner II
Gilbert Olgin, Planner II
Amy Temes, Senior Planner
Nathan Williams, Senior Planner
Principal Planner Catherine Lorbeer

ALSO PRESENT: Attorney Nancy Davidson
Council Liaison Brigitte Peterson
Recorder Debbie Frazey

PLANNER	CASE	PAGE	VOTE
Bob Caravona	S17-1007	5	Approved
Gilbert Olgin	GP17-1002	16	Approved
Gilbert Olgin	Z17-1005	16	Approved
Nichole McCarty	DR17-1016	6	Approved
Amy Temes	DR17-1060	6	Approved
Ashlee MacDonald	UP08-11A(UP16-03)	21	Approved
Amy Temes	Z17-1008	24	Approved

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9. Discussion of Regular Meeting Agenda

Chairman Kristofer Sippel let the members of the audience know that the Commission had failed to discuss the Regular Meeting Agenda before he recessed the Study Session. He then shared the changes that would be made to the Regular Meeting Agenda. He indicated that Item 13, GP17-1002, Riggs Extra Space Storage and Item 14, Z17-1005, Riggs Extra Space Storage would be moved from the Public Hearing (Consent) Agenda to the Public Hearing (Non-Consent) Agenda. He also indicated that they would be moving Item 16, DR17-1060 RV Storage Facility from the Public Hearing (Non-Consent) Agenda and would be placing it on the Public Hearing (Consent) Agenda. He also noted that they had received an addendum to Item 12 that they would be reading into the minutes. He then asked if any of the Commissioners had a Conflict of Interest.

Carl Bloomfield and Greg Froehlich declared a Conflict of Interest on Item 12, ST17-1007, Highland Estates.

Chair Sippel stated that they would make a separate motion on Item 12, ST17-1007, Highland Estates, due to Commissioner Bloomfield and Commissioner Froehlich both having a Conflict of Interest. He also indicated that they would have a separate motion on Item 15, DR17-1016 ARC Gilbert.

CALL TO ORDER REGULAR MEETING

After finishing the Discussion of the Regular Meeting Agenda, Chair Sippel then called the September 6 Regular Meeting of the Planning Commission to order at 6:11 p.m.

ROLL CALL

Recording Secretary Debbie Frazey called roll and a quorum was determined to be present.

10. APPROVAL OF AGENDA

Chair Sippel called for a motion to approve tonight's agenda. Vice Chair Brian Andersen made a **MOTION** to approve the agenda with the previously stated changes (listed above); seconded by David Cavenee; and passed unanimously.

Motion passed 7-0

11. COMMUNICATION FROM CITIZENS.

At this time, members of the public may comment on matters within the jurisdiction of the Town, but not on the agenda. The Commission/Board response is limited to responding to

criticism, asking staff to review a matter commented upon, or asking that a matter be put on a future agenda.

Chair Sippel asked if there were any members of the public who wished to speak on something that was not on the agenda. Chair Sippel then invited Carol Crowe to come up to the podium to address the Commission. He indicated that Ms. Crowe would like to give an update regarding the ALA campus at the corner of Higley Road and the 202 Freeway that she had discussed at last month's meeting.

Carol Crowe, of Gilbert, introduced herself. She shared that she has been trying to address the lighting structures in the parking lot at the ALA Campus for the past two months. She said that these lighting structures are facing the nearby resident's backyards. She said that she has determined (by meeting with Town Staff) that the lights are 23' tall and the Town Code only allows them to be a maximum of 14' high. She said they have asked for resolution of this problem. She said as a resident, she would have thought the Code would be enforced by the developer of the site, and didn't know that she would have to challenge and question the structures near her home. She shared a slide with a map of the area. She said the residents were told that shield lights would be built to cover the lighting structures. She said she would like to know how long this would take. She said she has been told for two months that the shields are on order and now they have the additional issue with the height of the lighting structures. She said there doesn't seem to be any accountability and no one seems to be taking action. She stated that Town Staff was kind enough to meet with her, so she has a number of contacts at the Town, but she said putting all the parts together is still a puzzle. She said the one person that has stepped up to help has been Nathan Williams. She then shared the location of her property and the properties of some other residents, noting that it appears to be daylight in their backyard due to the lighting structures. She said she did receive a call earlier today from Richard Moss who updated her and let her know that the lighting structures were now being fixed. She feels frustrated that it has taken two or three months to be able to solve this issue. She said she also feels that there will be other things that need to be looked at moving forward. She said that Catherine Lorbeer was helpful to her after the previous meeting. She said she needs Town Staff to take action and to hold this developer accountable.

Chair Sippel thanked Carol Crowe for her comments. He then invited Richard Moss forward, who also wished to speak.

Richard Moss, of Gilbert, introduced himself. He stated that he represents American Leadership Academy in this project. He said he wanted to address some of the concerns of Carol Crowe. He said her concerns are also concerns that ALA has. He said the light poles are being addressed, stating that they are awaiting a fix from the manufacturer. He told the Commission that if they don't have a suitable fix, they will replace them with 14' poles. He said they were installed at 23' and that height doesn't meet the requirements of the Annexation Agreement that they have with the Town. He offered his apologies. He said they were also installing shields for the lights starting on Monday. He said they have had some unfortunate problems throughout the construction phase of the ALA Campus with some of their subcontractors. He gave an example

of the subcontractors showing up earlier than the time they were allowed to begin working. He said that problem has been addressed. He said he realized that there were times that they had been an inconvenience to the neighbors and they regret that. He said it was their intent that they be good neighbors to those residents around the school, but also to the community of Gilbert.

Chair Sippel asked Catherine Lorbeer if it would be acceptable to invite Nathan Williams up to provide a quick update. After receiving agreement from Catherine Lorbeer, Nathan Williams came up and provided an update.

Nathan Williams thanked the different neighbors that had been engaged in the process. He said he can understand Carol Crowe's frustration, as there are a lot of different Town Staff to interact with to address the many different issues. He then briefly discussed the lights in question and acknowledged that they do not meet requirements for the LDC, because when lighting is within 100' of a residential community, it can only be a maximum height of 14'. He said when he went out to the site, he noticed that the poles were 23' high. He said this would have to be fixed to come into compliance with the Code. He said they will also need to submit and have their Photometric plan approved by the Building Department. He said there had also been a concern that the lights had been left on all night. He said that Mr. Moss had indicated that the lights had malfunctioning timers that weren't working and that issue is being addressed.

Question: Chair Sippel asked about the comment Carol Crowe had made about the fact that she had to bring the lighting issue to the Town. He asked what the Town had in place so that this time of issue would be caught by Town Staff. He asked if there was a final inspection that is done that would have caught something like that.

Answer: Catherine Lorbeer informed Chair Sippel that because this was not an agenda item, it would not be appropriate to continue to talk about the issue. She said they could add this item on a future agenda, so that this type of question could be asked and answered. In response to the question, she said that Town Staff would do inspections out in the field and this type of mistake would have been noted when the items are finalized. She said they appreciate input from the community when they notice this type of concern.

Chair Sippel asked if Catherine Lorbeer could place the item on the agenda for next month's meeting. He said he would appreciate having a progress report and being able to dialogue on the issue. He expressed his appreciation to Nathan Williams for his involvement in helping to solve the concerns of the neighboring residents. He asked that Town Staff continue to keep in contact with the engaged neighbors. He also asked the applicant to stay on top of their contractors and subcontractors to make sure they are following the requirements of the Town Code. He thanked Carol Crowe and Richard Moss for coming out this evening.

PUBLIC HEARING (CONSENT)

All items listed below are considered consent calendar items and may be approved by a single motion unless removed at the request of the Commission/Board for further discussion/action. Other items on the agenda may be added to the consent calendar and approved under a single motion.

Chair Sippel read the Public Hearing (Consent) Agenda (listed with Staff Recommendations below) as follows: Item 12, S17-1007 Highland Estates; Item 15 DR17-1016 ARC Gilbert and Item 16, DR17-1060, RV Storage Facility, Power and Warner. He asked if there were any members of the public that wished to speak on any of the Consent Agenda items. Seeing none, he called for a motion, noting that they would be making separate motions. First, they would make a motion on Item 12 and then they would make another motion on Item 15 and Item 16.

Vice Chair Andersen made a **MOTION** to approve Item 12, S17-1007, Highland Estates, with addendum as follows: Stipulation 5 was corrected and now reads: Amended graphics provided, Attachment 5; seconded by Joshua Oehler; motion carried.

Motion carried 5-0 with Greg Froehlich and Carl Bloomfield abstaining.

12. S17-1007, HIGHLAND VISTAS: REQUEST TO APPROVE THE PRELIMINARY PLAT AND OPEN SPACE PLAN FOR 38 SINGLE FAMILY HOME LOTS ON APPROXIMATELY 19.4 ACRES OF REAL PROPERTY GENERALLY LOCATED AT THE NORTHWEST CORNER OF E. 172ND STREET AND HUNT HIGHWAY AND ZONED SINGLE FAMILY-10 (SF-10) WITH A PLANNED AREA DEVELOPMENT (PAD) OVERLAY.

STAFF RECOMMENDATION

Move to Approve the Findings of Fact and S17-1007, Highland Vistas Preliminary Plat for approximately 19.4 acres consisting of 38 single family lots, generally located at the northwest corner of E. 172nd Street and Hunt Highway and zoned Single Family-10 (SF-10) with a Planned Area Development (PAD) overlay, subject to following conditions.

1. The Final Plat and construction of the project shall be in substantial conformance with Exhibit 5 approved by the Planning Commission / Design Review Board at the September 6, 2017 public hearing and Exhibit 6 the Open Space Plan to be approved administratively by staff on September 7, 2017.
2. The existing perimeter wall will be used as is or if needed, will be repaired or replaced by the Developer in coordination with adjacent property owners.
3. Future proposed signage complying with the Land Development Code shall be approved administratively by Planning Staff prior to submitting for sign permits.
4. The location, number and types of streetlights shall be in accordance with adopted Town standards or in accordance with a variance to such standards as may be approved by the Town Engineer.
5. ~~The private road cross-section detail "Local Street" shall be called out as a Tract on the Preliminary Plat and resubmitted to the Planning Department prior to construction document submittal.~~ Amended graphics provided, Attachment 5.

Chair Sippel then called for a motion on Item 15 and Item 16 (listed below with Staff Recommendations). Vice Chair Andersen made a **MOTION** to approve Item 15, DR17-1016, ARC Gilbert and Item 16, DR17-1060, RV Storage Facility, Power and Warner; seconded by Greg Froehlich; motion passed unanimously.

Motion passed 7-0

- 15. DR17-1016, ARC MEDICAL OFFICE: SITE PLAN, LANDSCAPE, GRADING AND DRAINAGE, ELEVATIONS, FLOOR PLANS, LIGHTING, COLORS AND MATERIALS FOR A 11,091 SQ. FT. MEDICAL OFFICE BUILDING, LOCATED ON APPROXIMATELY 1.5 ACRES, GENERALLY LOCATED NORTHEAST OF THE NORTHEAST CORNER OF VAL VISTA DRIVE AND MERCY ROAD AND ZONED GENERAL OFFICE (GO) WITH A PLANNED AREA DEVELOPMENT (PAD) OVERLAY, SUBJECT TO CONDITIONS.**

STAFF RECOMMENDATION

Approve the Findings of Fact and approve DR17-1016, ARC Medical Office: site plan, landscape, grading and drainage, elevations, floor plans, lighting, colors and materials for a 11,091 sq. ft. medical office building, located on approximately 1.5 acres, generally located northeast of the northeast corner of Val Vista Drive and Mercy Road and zoned General Office (GO) with a Planned Area Development (PAD) overlay, subject to conditions:

1. Construction of the project shall conform to the exhibits approved by the Planning Commission at the September 6, 2017 public hearing.
2. The construction site plan documents shall incorporate the Standard Commercial and Industrial Site Plan Notes adopted by the Design Review Board on March 11, 2004.
3. Signage is not included in this approval. All signs shall be approved through a separate permitting process.
4. Address outstanding 2nd review comments, prior to submittal of Construction Documents. These include minor items such as updating sight triangles, text and labeling corrections and coordinating the Fire Hydrant location with the Grading and Drainage Plan.

- 16. DR17-1060, POWER AND WARNER RV STORAGE: SITE PLAN, LANDSCAPE, GRADING AND DRAINAGE FOR APPROXIMATELY 2.0 ACRES, GENERALLY LOCATED AT THE SOUTHWEST OF THE SOUTHWEST CORNER OF POWER AND WARNER ROADS GIVE CORNER AND ZONED REGIONAL COMMERCIAL (RC) SUBJECT TO CONDITIONS.**

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STAFF RECOMMENDATION

Approve the Findings of Fact and approve DR17-60, Power and Warner RV Storage: site plan, landscape, grading and drainage for approximately 2.0 acres, generally located southwest of the southwest corner of Power and Warner Roads and zoned Regional Commercial (RC), subject to conditions:

1. Construction of the project shall conform to the exhibits approved by the Planning Commission at the September 6, 2017 public hearing.
2. The construction site plan documents shall incorporate the Standard Commercial and Industrial Site Plan Notes adopted by the Design Review Board on March 11, 2004.
3. Signage is not included in this approval. Administrative Design Review approval is required prior to submitting for sign permits.
4. All driveways and parking shall be paved in either asphalt or concrete with a 6" poured in place concrete curb edge. The 30" vehicular overhang shall not encroach into the required landscape areas.
5. Existing trailer and associated structures shall be removed from the property at the issuance of construction permit.
6. Three additional Calceolate trees shall be added to the rear landscape area.
7. Two additional Ghost Gums shall be added to the west side landscape area.
8. Construction documents shall depict the 35'/55' emergency vehicle turning radii.
9. Water lines shall be within a 10' easement
10. The backflow preventer shall be within 24" of the water meter box.

PUBLIC HEARING (NON-CONSENT)

Non-Consent Public Hearing items will be heard at an individual public hearing and will be acted upon by the Commission/Board by a separate motion. During the Public Hearings, anyone wishing to comment in support of or in opposition to a Public Hearing item may do so. If you wish to comment on a Public Hearing Item, you must fill out a public comment form, indicating the item number on which you wish to be heard. Once the hearing is closed, there will be no further public comment unless requested by a member of the Commission/Board.

Chair Sippel invited Planner Gilbert Olgin forward to begin his presentation on Item 13, GP17-1002 and Item 14, Z17-1005.

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13. GP17-1002, RIGGS EXTRA SPACE STORAGE: REQUEST FOR MINOR GENERAL PLAN AMENDMENT TO CHANGE THE LAND USE CLASSIFICATION OF APPROXIMATELY 6.45 ACRES OF REAL PROPERTY LOCATED AT THE SOUTHEAST CORNER OF E. RIGGS ROAD AND S. 164TH/CONSTELLATION WAY FROM NEIGHBORHOOD OFFICE (NO) TO GENERAL COMMERCIAL (GC) LAND USE CLASSIFICATION.

14. Z17-1005, RIGGS EXTRA SPACE STORAGE: REQUEST TO REZONE APPROXIMATELY 6.45 ACRES OF REAL PROPERTY LOCATED AT THE SOUTHEAST CORNER OF E. RIGGS ROAD AND S. 164TH/CONSTELLATION WAY FROM NEIGHBORHOOD OFFICE (NO) ZONING DISTRICT TO GENERAL COMMERCIAL (GC) ZONING DISTRICT WITH A PLANNED AREA DEVELOPMENT (PAD) OVERLAY.

STAFF RECOMMENDATION

- A. Recommend to the Town Council approval of GP17-1002, to change the land use classification of approximately 6.45 acres of real property, generally located at the southeast corner of east Riggs Road and south 164th/Constellation Way from Neighborhood Office (NO) land use classification to General Commercial (GC) land use classification; and
- B. For the following reasons: the development proposal conforms to the intent of the General Plan and can be appropriately coordinated with existing and planned development of the surrounding areas, and all required public notice and meetings have been held, the Planning Commission moves to recommend to the Town Council for approval of Z17-1005, a request to rezone approximately 6.45 acres of real property generally located at southeast corner of east Riggs Road and south 164th/Constellation Way from Neighborhood Office (NO) zoning district to approximately 6.45 acres of General Commercial PAD (GC) zoning district, subject to the following conditions:
 - 1. Dedication to Gilbert for Riggs Road and 164th/Constellation Way rights-of-way that are adjacent to the Property shall be completed prior to the dedication of the final plat or issuance of a building permit, whichever comes first. Failure to complete dedication of these roads as required by this ordinance may result in reversion of the zoning to the prior zoning classification.
 - 2. Dedication of Riggs Road shall extend 100 feet from the center line. Dedication of 164th/Constellation Way shall extend 40' feet from the centerline. Dedication shall conform to the Town's standards and requirements as determined by the Town Engineer.

3. Construction of off-site improvements to 164th/Constellation Way adjacent to the Property shall be completed prior to issuance of a certificate of occupancy or final approval of any building constructed on the Property, whichever is earlier. If Gilbert constructs the improvements required by this ordinance as part of its capital improvements program prior to development of the Property, Developer shall reimburse Gilbert for its reasonable costs of construction prior to issuance of a certificate of occupancy or final approval of any unit or building constructed on the Property.
4. Developer in accordance with Resolution 2979, Developer shall reimburse the Town and such reimbursement shall occur prior to recordation of a final plat on any portion of the property. In accordance with Resolution 2979, Town of Gilbert shall withhold all building permits until payment is received in full. Failure by Developer to reimburse Town as required by this ordinance may result in reversion of the zoning to the prior zoning classification.
5. At the written request of Gilbert, Developer shall dedicate all necessary easements for the roadway improvements, including easements for drainage and retention and temporary construction easements. Necessary drainage easements include (but are not limited to) easement to the east of the 40-foot ROW dedication on 164th/Constellation Way, and easements for the two inlets adjacent to Riggs Road, one being 40-65 feet west of the eastern property line, and the other being 290 to 320 feet west of the eastern property line. Failure to dedicate said easements within thirty (30) days after the date of Gilbert's written request may result in the reversion of the zoning of the Property to the prior zoning classification.

If any landscaping, open space, private streets, utilities, or other facilities is held in common ownership, Developer shall create a Property Owners' Association (POA) for the ownership, maintenance, landscaping, improvements and preservation of all common areas and open space areas and landscaping within the rights-of-way. Maintenance responsibilities for any common areas and open space areas shall be specified on the approved site plan or final plat. If any landscaping, open space, private streets, utilities, or other facilities is held in common ownership, Developer shall record easements to be owned by the POA for pedestrian, bicycle, multi-use or trail system purposes as determined by the final plat, at the time of final plat recordation, or earlier if required by the Town Engineer. In recognition of the modifications to the underlying zoning regulations set forth herein, such easements shall be open to public access and use.

6. Developer shall create a Common Maintenance agreement between the two Property Owners for the shared maintenance, landscaping, improvements and preservation of all common areas and open space areas and landscaping within the

rights-of-way. Maintenance responsibilities for common areas and open space areas shall be specified on the approved site plan or final plat.

7. Developer shall record easements to be owned by the POA for pedestrian, bicycle, multi-use or trail system purposes as determined by the final plat, at the time of final plat recordation, or earlier if required by the Town Engineer. In recognition of the modifications to the underlying zoning regulations set forth herein, such easements shall be open to public access and use.
8. Prior to final plat approval, Developer shall pay for its proportional share of water and sewer mains benefitting the Property, as required by the Town Engineer.
9. The Project shall be developed in conformance with Gilbert's zoning requirements for the zoning districts and all development shall comply with the Town of Gilbert Land Development Code, except as modified by the following:

<i>Standards</i>	<i>GC(PAD)</i>
Minimum Setbacks (ft.) Rear (Residential)	62'
Minimum Required Perimeter Landscape Area (ft.) Rear (Residential)	20'

An additional stipulation was added at tonight's meeting:

- 10. The western half of the property will be restricted to a single story, maximum 25' height building.**

Gilbert Olgin began his presentation on GP17-1002 and Z17-1005, Riggs Extra Space Storage. He shared the location of the property on Riggs Road and 164th/Constellation Way. He said this request is for a Minor General Plan Amendment and Rezoning. The Minor General Plan Amendment request is to change the land use classification from Neighborhood Office (NO) to General Commercial (GC). The request for rezoning is to change from Neighborhood Office (NO) zoning to General Commercial (GC) zoning district with a Planned Area Development (PAD) overlay. Planner Olgin shared that the site is 6.45 acres. He then shared some site history, noting that back in 2006, the Design Review Board approved the site for Mountain Wood Professional Village, but that project never materialized. Gilbert Olgin shared a General Plan Land Use Exhibit. He said that the intent of the rezoning was for the owner to build an Indoor, Climate-Controlled Self-Storage facility. The requested project would be 2-story. He briefly shared the existing zoning around the subject site.

Planner Olgin noted that the site is located within the Santan Character Area, which envisions predominately low to medium density residential development that blends with the rural agricultural roots of the area and has supportive businesses. He shared the reasons why the

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proposed amendment to change from NO to GC conforms to the overall intent, goals and policies of the General Plan. He indicated that the property has been vacant for 11 years. He pointed out that some of the physical constraints that exist on the property have made it difficult to develop, specifically the Flood Control Easement that exists on the property. He said this easement sets the property back 50'. He then shared some potential uses for the second portion of the property that might be located on the subject site:

- Cultural institutions
- Daycare Center
- Place of Worship – Small Scale
- School – Small Scale
- Urgent Care Facility
- Medical Offices and Clinics
- Nursing Home
- Financial Institutions
- Office – General
- Dry Cleaning and Laundry Outlet
- Laundry Services
- Retail Sales – Small Scale

He shared the PAD request which was to allow a setback reduction on the rear portion of the site. He pointed out that the property is next to an existing church and even though the property is zoned residential, there is a non-residential use on that site. He told the Commission that Staff recommends approval for both the Minor General Plan Amendment and the Rezoning. He mentioned that there were some members of the public in attendance at tonight's meeting that wished to speak on the case.

Chair Sippel thanked Planner Olgin for his presentation. He then invited Brianna Meredith, who was opposed to the item and had requested to speak on the case, up to the podium to address the Commission.

Brianna Meredith, of Chandler, introduced herself. She said that she currently lives in Chandler, but has purchased a new build in Adora Trails. She said their lot is directly to the west of the proposed project. She stated her opposition to the proposed zone change from Neighborhood Office (NO) to General Commercial (GC). She said they would prefer to have a single story building in the space, so as not to obstruct their view. She said they would also desire to have more of a transition between their home and the commercial space that will be going to the east of this one. She stated that she doesn't believe that a storage facility is necessary for this space, due to the fact that there are a number of these types of facilities already in the area. She said this use may affect the value of their home as it will be viewable from their windows. She said they have also received some feedback from some of their future neighbors that they also would prefer to see a different type of facility in the space. She said that if the zoning does change from Neighborhood Office to General Commercial, they would like to see facilities that are more

family oriented and foster more of a community environment. She said it would be great to have a local coffee shop or a dance or karate studio in that specific area. She also said it would be nice to have something with architecture more in sync with the current environment.

Chair Sippel thanked Brianna Meredith and then invited Sean Lake, who is representing the applicant, forward to speak.

Sean Lake introduced himself, noting that he was in attendance on behalf of the property owner and the applicant on this project. He said this site is a unique project, in that it is sandwiched between the Adora Trails residential development and the Regional Commercial property directly to the east. He pointed out that on the south side of the property is an existing LDS church and a public fire station across Riggs Road. He said this is an infill piece that has been developed on all four sides. He stated that Riggs Road is a road with regional significance, noting that Maricopa County has designated Riggs Road as the major arterial to convey traffic in an east/west manner. They have put quite a bit of money into the improvement of Riggs Road to carry a substantial amount of traffic. He said that although this sounds like a promising piece of information regarding the property, the site is constrained by a 50' drainage channel and placing a bridge over that is a monumental and expensive task. He said that isn't a feasible option for a parcel as small as this one. He said they are before the Commission tonight to come up with a use that will work on the site, but will also deal with the constraints. He said they believe this is a good transitional use as you work your way from the east towards residential. He stated that the access to this site is off of Constellation Way. He stated that they have held two neighborhood meetings on February 15 and April 13 and received a warm reception by those in attendance.

Sean Lake then brought up the items that the Commission had brought forward at Study Session that they would like to see changed. He said they have tried to incorporate everything they could that was brought up at the Study Session into their design. He said they had realigned the drives and worked with the Town Engineering and Transportation Department to adjust those as best they could to maintain access to the site and to maintain the buffer along the west side. They have also removed the daycare as a potential use. A daycare is one of the possible uses, but because they don't have a signed tenant, they have removed daycare as a potential use. He noted that the second parcel remains vacant. He shared that the site has constraints because of the drainage channel, also noting that because Riggs cannot be accessed, it will force any type of more intense use away from the site. He shared a copy of the Landscape Plan. He said they are proposing an enclosed storage facility. He said there is no outdoor storage on the site, it would all be indoor storage. He briefly explained how the facility would operate. He said a storage facility is one of the least intense commercial uses that they could have. He briefly shared the types of usage that could exist on the second parcel. He said they would love to have a dance studio, karate studio or coffee shop locate on the parcel as Brianna Meredith had suggested. He finished his remarks and asked for the support of the Commission.

Chair Sippel thanked Sean Lake for his presentation and called for comments or questions from the Commission.

Comment/Question: Joshua Oehler said that this case kind of blends back and forth between a Design Review case and a Zoning case. He asked about the access points and asked why they couldn't tie the two together, so that if a vehicle got too far the other way, they wouldn't have to go back out into the right-of-way to come back in. He said with this design, he is concerned with the connection and doesn't understand why it can't be rearranged.

Answer: Sean Lake said they want to have the two points of access on Constellation Way. He said they don't have any conflicts with drive aisles across the street and they do comply with the what Town Transportation Staff has requested. He said this is a preference the applicant would like to have and the applicant believes it will provide better circulation for the site to not have people incoming and outgoing. He shared how a vehicle would come into the site and how they would exit.

Comment: Joshua Oehler said he didn't think that would be the natural way people would want to drive the site.

Response: Sean Lake said some of what makes this difficult is that they don't know what the second use will be and they don't want to hamstring themselves with a use that limits their access points. He said that Constellation way is not a highly traveled road.

Comment: Joshua Oehler said that if he came to the site, he wouldn't pass a driveway to go to a second driveway. He pointed out that their traffic would be coming from Riggs.

Response: Sean Lake agreed that their traffic would be coming from Riggs and entering the site on Constellation Way.

Question: Joshua Oehler asked if they would be expecting the user to pass up the first driveway to go to the second driveway.

Answer: Sean Lake answered that that was not necessarily the case. He shared that the circulation pattern for this project would be to come through a gate, enter a code, the door would then go up. When the user is finished, they would enter their code and the door would go up again for them to leave. He said that is the circulation pattern they are anticipating. He said although people won't visit this site very often, they will get to know where their stuff is located and they will figure out how to maneuver around the site.

Comment: David Cavenee said he wanted to point out that Neighborhood Office and General Commercial both have the same height allowance so this could be a 2-story project by right. He said that he thinks the circulation is acceptable. He said it is nice that the site doesn't currently share Constellation Way with anyone at this point, other than the church. He said that the residential community will come off of a different frontage. He said the second lot could be a variety of things. He said he feels this is a pretty good effort on a constrained site. He said they could work on the aesthetics a little bit, but he said the nice thing is that this site is tucked further east away from the residential so they won't be as impacted once that final development takes place.

Comment: Catherine Lorbeer made a point of clarification that within the Neighborhood Office zoning district, the maximum height is 25' and 1-story and within the General Commercial the maximum height is 45'.

Comment: David Cavenee said that he believes it is listed incorrectly within their Commission packet. (Note: At a later time in the meeting, Commissioner Cavenee clarified that it was not listed incorrectly in the Commission packet)

Comment: Sean Lake pointed out that the storage facility would be about 400' away from the nearest lot that backs up to Constellation Way, resulting in the 2-story structure being 400' away from the back lot line of any home that backs up to Constellation Way. He mentioned that this is quite a distance and is unlikely to cause any obstruction of a homeowner's view to the east from that area. He said that if the Commission wanted to restrict the use on the second lot to a single story, they could do so and the applicant wouldn't have a problem with that. He anticipates it being a single story use.

Comment: Greg Froehlich said he would want to restrict the use of the second lot to a single story. He wouldn't want to see a 45' structure in that location. He said the only potential issue he sees regarding the circulation, is that if they were to come in on the southern driveway and then circulate around, he thinks the people that come there for the first time will be going to the office. He said that because the office is on the north side of the building, he thinks it will be likely that they would drive in on the first driveway. He thinks there might be some issues with circulation, but he doesn't believe they will have a great deal of traffic.

Question: Joshua Oehler asked if they held the applicant to a single story usage on the second lot, what height would they limit it to.

Answer: Sean Lake said he thought 25' would be a good height, with allowance for architectural parapets.

Comment: Joshua Oehler said they could suggest 25' to top of roof.

Response: Sean Lake said they would have no problem with that.

Comment: David Cavenee said that he was mistaken that the packet incorrectly listed that the building height of both the Neighborhood Office and the General Commercial was the same.

Chair Sippel called for any questions or comments for Staff. Seeing none, he asked if Gilbert Olgin had anything further to add. Gilbert Olgin didn't have anything further to add.

Chair Sippel closed the public hearing and brought the discussion back to the dais.

Comment: David Cavenee said he is very sensitive to the neighbor's concerns, but he believes the developer has tried to address those concerns by putting the storage facility to the east side of the lot, allowing for another development to come in between them. He said he believes it is a fair transition between Regional Commercial and residential to have the minor commercial use.

He said they have talked about the elevations and he believes this use will end up being a reasonable neighbor. He said these types of facilities do have minimal traffic. He said he doesn't have any concerns with the access. He said he believes the applicant has done the best they could, given the constraints of the 50' drainage channel that fronts Riggs Road. He said he is in support of the project, as long as they get the elevations to be a little more attractive.

Comment: Carl Bloomfield said that when they looked at the earlier packet relating to Design Review, they were missing the landscape, but it helped that Mr. Lake provided some details regarding the landscape. He said it was good to know they have a Landscape Plan, but that it was just missing from the submittal. He said he thinks the architectural detailing that they were looking at before, specifically on the west side, is going to be hidden behind the other building that will be developed in the future. He said he wasn't sure how important it was that they have the architectural detailing because of this. However, he said when he was listening to the case earlier, he would have agreed that it needed to be a little more attractive and more in conformance with the surrounding area. He said for this portion of the project, which relates specifically to the General Plan and Rezoning, he had no problem and was in support.

Comment: Greg Froehlich said he thought they have done a good job of putting this commercial use over to the east side of the property. He said he would be in favor of the project, if they stipulate that the westernmost property is developed to be a single story.

Question: Chair Sippel asked Catherine Lorbeer if the Commission would need to put this in as a stipulation or if it would happen between the time it went from the Commission to Town Council.

Answer: Catherine Lorbeer clarified that the Commission could certainly make the recommendation now if they believe it should be a stipulation. If not, the Town Council would simply see their discussion in the minutes.

Comment: Joshua Oehler said he thought the Commission should add the stipulation. In regards to the zoning case, he said he thinks the developer has done a good job of transition considering the site constraints. He said he still has some issues with going to General Commercial and creating a PAD site, in which they don't know what the use will be. He said even though they hope it is a coffee shop, they don't know what it will be and don't know the future traffic patterns it will create until it is developed. He said he still is concerned with the two ingress/egress points when he believes they could be consolidated into one. He said they are creating a "no outlet" condition. He said he doesn't believe it is a quality design regarding circulation. He said although this is his concern, it does not concern the zoning or the use. He said this creates a lot of turns and angles and he discussed his concerns regarding service trucks. He thinks they could centralize a larger section, more in the middle of the property, and bring in the two together into one larger entry point. He said he believes that would be a more natural design. He said because they are only deciding the zoning case right now, if they stipulate to a 1-story, 25' use, he would be in support of the zoning change. He noted that the site plan isn't stipulated to the zoning, but would go back to the Design Review case.

Response: Catherine Lorbeer said that there is a Development Plan with this case because there is a PAD with the deviations, so they have been given a relatively simple Development Plan that will be approved with the case.

Comment: Joshua Oehler said that they would be stipulating with the Development Plan, but it doesn't look like most of the Commission has an issue. He said he did still have an issue with the circulation.

Comment/Question: Chair Sippel said it looked like the Commission was all in agreement that they needed to stipulate to 1-story for the western portion of the project. He asked for some direction from Staff on how they might word the stipulation.

Answer: Catherine Lorbeer suggested that they specifically refer to the western half of the property when making their stipulation, as well as limiting the height to 25' and 1-story.

Chair Sippel sought to verify that the applicant was agreeable to this stipulation. Mr. Lake nodded his agreement.

Chair Sippel then called for a motion on Item 13, GP17-1002, Riggs Extra Space Storage. Chair Sippel made a **MOTION** to approve GP17-1002, Riggs Extra Space Storage, with the added stipulation that the westernmost half of the property be no more than 25' and 1-story.

At this point, Catherine Lorbeer pointed out that the Commission would need to make two separate motions because there are two separate cases, noting that the stipulation would only be needed for Item 14, Z17-1005 and not for the General Plan case, Item 13, GP17-1002.

Brian Johns asked if they could have discussion. Chair Sippel rescinded his motion and called for discussion.

Question: Brian Johns sought to clarify that the applicant was okay with the added stipulation.

Answer: Chair Sippel answered affirmatively.

David Cavenee made a **MOTION** to recommend to Town Council approval of Item 13, GP17-1002, Riggs Extra Space Storage; seconded by Carl Bloomfield; motion passed unanimously.

Motion passed 7-0

David Cavenee made a **MOTION** to recommend approval of Item 14, Z17-1005, Riggs Extra Space Storage with the added stipulation that the western half of the property be restricted to a single story, maximum 25' building height; seconded by Carl Bloomfield; passed unanimously.

Motion passed 7-0

17. UP16-03 (UP08-11A), MOTHER NATURE'S FARM: A SPECIAL USE PERMIT TO ALLOW AGRITAINMENT USES, FOR APPROXIMATELY

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45 ACRES OF REAL PROPERTY GENERALLY LOCATED ON THE SOUTH SIDE OF BASELINE ROAD BETWEEN COOPER ROAD AND GILBERT ROAD AT THE NEELY ROAD ALIGNMENT IN THE BUSINESS PARK (BP) ZONING DISTRICT WITH A PLANNED AREA DEVELOPMENT (PAD) OVERLAY.

STAFF RECOMMENDATION

Make the Findings of Fact and approve of UP16-03 (UP08-11A), Mother Nature's Farm: a Special Use Permit to amend the site plan and modify conditions of approval under UP08-11 for Agritainment uses for approximately 45 acres of real property located at 1657 E. Baseline Rd at Mother Nature's Farm in the Business Park (BP) zoning district with a Planned Area Development (PAD) overlay, subject to conditions:

1. Future expansion and construction of the project shall substantially conform to the Master Plan, as approved by the Planning Commission on September 6, 2017.
2. The Special Use Permit for Mother Nature's Farm Master Plan shall be in conformance with the existing PAD requirements set forth in Ordinance Nos. 482, 919 and 972.
3. Current operations and activities shall be in conformance with the attached Existing Conditions Site Plan for Mother Nature's Farm, dated August 3, 2016. Any changes shall require a modification to this Use Permit pursuant to the Land Development Code 5.404.B.2 *Modifications – Conditional Use and Special Use Permits*.
4. Upon abandonment or termination of the leases of the four remaining contractor's yard tenants, the spaces shall only be occupied by uses consistent with the Business Park zoning district and the agritainment use.
5. Prior to any new construction, the applicant shall submit for Design Review approval pursuant to the Land Development Code 5.2 Design Review. Prior to Design Review, approval a parking study prepared by a person licensed to prepare such study shall be submitted to the zoning administrator for review and approval; the study shall be used to determine the off-street parking requirements.
6. Seasonal deliveries during the months of September, October, November and December by trucks, as defined in the Gilbert Municipal Code, are restricted to the use of Harwell Road between 10pm and 8am. These size trucks are also restricted from staging or delivering equipment on Harwell Road from 10pm to 8am.
7. A gate restricting access between the contractor's yard and Harwell Road will be closed between 10pm and 8am. The Town of Gilbert Fire Marshal shall approve the access gates and locks for both entries to the Contractor's Yard. A minimum 20 ft. fire lane

shall be maintained through the Contractor's Yard at all times. The owner will be responsible for locking and unlocking the gate.

Before Ashlee MacDonald began her presentation on UP16-03, Greg Froehlich declared a Conflict of Interest and exited the dais.

Planner MacDonald began her presentation on UP16-03, Mother Nature's Farm. She indicated that this was an amendment to UP08-11A. She said this is an existing use off of Baseline Road between Gilbert and Cooper Roads. She indicated that the Mesa boundary is just north of the subject site. She said that the subject site is zoned Business Park (BP) as are the properties to the west. She said that there is residential development to the south, east and west. She also noted that Neighborhood Office (NO) makes up a portion of the eastern boundary of the site. She said the site is 45 acres in size that has been historically used for agricultural purposes since the 1960's. She said it has been used for seasonal agricultural sales since the 1980's and has been used for agritainment uses since the 1990's. In 2005, Ashlee MacDonald said that when they adopted the LDC and rezoned much of the Town of Gilbert, this site was rezoned to Business Park (BP). She said they issued Use Permits in 2006 and 2009 for the agritainment use. In 2006, there was a 2-year expiration which is why they had to come back in 2008 to extend the Use Permit to 2009, before it was ultimately approved by Town Council. She said at the time it was quite a controversial case as it had been denied by the Planning Commission, but then was approved upon appeal by the Town Council. She said the request tonight is to modify Conditions of Approval from that 2009 case and update their Master Plan. She said that one of the conditions that existed in the 2009 approval was that the existing non-conforming Contractor's Yard be phased out within seven years of the approval. She reminded the Commission that during that time, they were entering the recession and it became difficult for the owners to phase out the Contractor's Yard because this was one of their primary income generators. She said they are requesting to eliminate or revise that condition and to update the Master Plan. The previous Master Plan that was approved required different phases of development. Planner MacDonald indicated that much of the uses that they are proposing remain the same, but they are looking at getting away from the phasing that was described previously, so that the site can develop as market demand dictates. She shared some details about the site, noting the existing access point on the easternmost portion of the site. She said that access point is to remain. She noted the location of a number of buildings and then pointed out the location of the Contractor's Yard. She again stated that the Contractor's Yard is the impetus behind this request. She indicated the location of the three points of access to the site. She said that the westernmost access point is primarily used for their farming operations. She showed the location of the primary full motion access, as well as a gated access point on Harwell Road that provides emergency access through the Contractor's Yard.

Planner MacDonald shared that there is a condition that limits the hours of operation for the Harwell Road access point. She said the applicant has informed her that the Harwell Road access is no longer used by contractors. She informed the Commission that Staff has not received any complaints from neighboring property owners on the use. She shared the Overall Site Plan and the Updated Master Plan, noting that they are requesting to eliminate phases that

had been previously approved. She said the rear portion of the overall site is being used for agricultural uses. She said they are not looking to expand beyond what they had planned for previously. She said that the applicant has proposed, and Staff has included as part of the Conditions of Approval, rather than set a time frame on when the Contractor's Yard would be phased out, Staff has suggested that as the contracts with the contractors terminate, they will be replaced with uses or users compliant with the Business Park (BP) zoning district. She said that Staff feels comfortable doing that because they have not received any complaints and they understand the nature of the operation itself and the income that the contractors provide. She said they have already started transitioning some of the contractors out and they have been replaced with some artisan manufacturers, which is a permitted use within BP. Of the seven spaces that they have for contractors, three of those are already artisan-type workshops, which is what they desire to transition to. She shared the area that is undeveloped, noting that it was highlighted in blue, and their plans for development as they move forward. She said many of the previous conditions related to the phased approach. Planner MacDonald stated that as development comes in, no matter which section it is in, whether it's the farmer's market area or the Children's Discovery Farm, the applicant would be required to go through Design Review, which would include review of the parking and landscaping, as appropriate. She said that they had received some public input from the Gilbert 311 site about standing water in the irrigation ditches on the agricultural portion of the site. The public is concerned that there are a number of mosquitos and flies in that area that they believe might be from the stagnant water. She told the Commission that Staff has looked into this issue, and suggested that the concerned neighbor should contact Maricopa County Vector Control, who enforces issues like the one they brought up. She also said that the Municipal Code addresses insect control, and their Code Compliance would go out if they received a complaint about stagnant water and they would verify that the drainage ditch is operational and wouldn't result in stagnant water that could create an insect problem. She said that the neighbor mentioned that other than this concern, they think Mother Nature's Farm is a great neighbor. She told the Commission that Staff was asking that the Commission recommend approval.

Chair Sippel thanked Ashlee MacDonald for her presentation and called for questions or comments.

Question: David Cavenee asked if the Contractor's Yard was like a sublet area, where they sell those areas to contractors to park their trailers there and work out of.

Answer: Ashlee MacDonald answered affirmatively.

Question: David Cavenee asked to clarify that some of them had already begun to flip into uses that are appropriate for Business Park (BP) zoning.

Answer: Ashlee MacDonald answered affirmatively.

Question: David Cavenee asked if the other Contractor's Yards were still filled. He also asked if they had any idea how long those contracts would extend.

Answer: Ashlee MacDonald said that those spaces are still filled and she doesn't know the term of the existing contracts, but she said the applicant might be able to provide additional

information if desired. She said Staff's concern is that any existing contractors be replaced as they leave with non-contractors, but since they haven't had any complaints, they are not terribly concerned about it.

Question: David Cavenee said he noted in the packet that it discussed the need for Neely Street to go all the way to Baseline eventually. He asked if that would be the Town's responsibility to develop that.

Answer: Ashlee MacDonald said that the applicant would provide that connection if the agricultural use would change and the Business Park use would be developed.

Question: David Cavenee asked to clarify that Mother Nature's Farm would have to do that as they developed it.

Answer: Ashlee MacDonald said they would not do so as part of Mother Nature's Farm operation, but if the site were to become more of a Business Park complex.

Question: David Cavenee asked if they would be leaving the Harwell access as a gated access that can be used if needed.

Answer: Ashlee MacDonald answered affirmatively. She said there are still conditions to protect when that gated access can be opened. She said it also serves as emergency access for the Contractor's Yard.

Chair Sippel asked if there were any further questions or comments. Seeing none, he invited the applicant to come forward and address the Commission.

Ralph Pew, of Mesa, introduced himself and stated that he was there to represent the applicant's, Sam and Wade Kelsall. He thanked Ashlee MacDonald for providing such a thorough summary, but said he wanted to highlight a few things with respect to the request for a Special Use Permit. He said he thought it was important to note, that this is a prize possession for the Town of Gilbert, as it is one of the last remaining sites that can be used for agritainment purposes in a meaningful way. He said it was very tempting over the years for the family to sell this property for development purposes. He said he believes everyone is happy that they didn't do so. He said this is a marvelous location and Mr. Kelsall and his son would like to continue the use and they are dedicated to this effort. He said in 2009, when the Council approved the Use Permit with a time limit on it, and added stipulations related to phasing, it was very difficult for the family to expand and comply with those time frames and with the complicated phasing plan. He asked the Commissioners to approve the Special Use Permit, subject to the conditions that the Staff has outlined and that the applicant is in agreement with. He asked the Commission to recognize that this is not a teenage hangout type of area, but is designed for smaller children and parents and guardians. He said there is nothing there that would attract an older teen or young adult. He said the site has pumpkins in the fall and Christmas trees in December, as well as many other events that go on throughout the year. He urged the Commission to approve the request and to clarify a couple of things. He said the Contractor's Yard was a bit contentious with some neighbors early on, but when the use stabilized, those concerns calmed down. He said that the Contractor's Yard is a legal, non-conformity that has continued through from the time the County was annexed into

the Town. He said they are trying to find a balance on how to ultimately phase out the Contractor's Yard, even though that may not be required to phase it out, but the applicant is willing to phase it out. He said three of the contractors have already been replaced with artisans. He said the ultimate goal is to have that Contractor's Yard full of artisans that build and sell things that are compatible with the agritainment concept. He said this won't happen overnight. He said the most important change is that the conditions regarding the phasing have been removed. He also pointed out that there is no traffic that goes in and out of this site, other than the parking at the north end. He reminded the Commission that they should be comfortable with the fact that any further development of the site, that implements the elements on the future Master Plan, are subject to Design Review. He said they have also agreed to do Traffic Studies to supplement what was done previously in 2007 or 2008. He urged the Commission to approve the Special Use Permit.

Chair Sippel called for questions or comments for the applicant.

Question: Brian Johns thanked Ralph Pew for his presentation. He asked to clarify what Staff was asking regarding the phasing as opposed to what the applicant was wanting regarding the phasing.

Answer: Ralph Pew said that Staff and the applicant were on the same page regarding phasing and he pointed out that the conditions have been amended accordingly.

Comment: Brian Johns said he had been in Gilbert over 20 years and has raised his family going to Mother Nature's Farm in Gilbert and he supports the request.

Response: Ralph Pew thanked Commissioner Johns for his comments. He said one of the things they would like to do, as money becomes available, is to provide some type of educational exhibits that would explain things like irrigation and how crops grow.

Chair Sippel told the members of the audience that this was a Public Hearing and asked if any member of the audience wished to speak on the item. He said he had received one card from Merilee Ade that asked a question. The question asked was: "Does this allow for construction of buildings on the current alfalfa field? He indicated that Merilee Ade had said if construction was allowed, she would oppose the item.

Ashlee MacDonald shared the Master Plan that was before the Commission. She said there is no planned development on the rear portion of the site. All development would be located on the northern half of the property.

Chair Sippel asked if there were any further questions or comments for Staff. Seeing none, he closed the Public Hearing, and brought the discussion back to the dais. Seeing no further discussion, he called for a motion. David Cavenue made a **MOTION** to approve Item 17, UP16-03 (UP08-11A), Mother Nature's Farm; seconded by Carl Bloomfield; motion carried.

Motion carried 6-0 with Greg Froehlich abstaining. After the vote was taken, Greg Froehlich rejoined the other Commissioners on the dais.

18. Z17-1008, LEGAL PROTEST: REQUEST TO AMEND THE TOWN OF GILBERT LAND DEVELOPMENT CODE, CHAPTER I ZONING REGULATIONS, DIVISION 5 ADMINISTRATION, ARTICLE 5.7 AMENDMENTS TO ZONING CODE TEXT, A ZONING ORDINANCE OR THE OFFICIAL ZONING MAP, SECTION 5.703 PROCEDURES, SUB SECTION 5.703H PROTEST PROCEDURES AND THE GLOSSARY OF TERMS AS RELATED TO THE LEGAL PROTEST PROCEDURE.

STAFF RECOMMENDATION

For the following reasons: the proposed regulations will provide for Land Development, Code consistency with state law, and maintain the public's welfare, the Planning Commission moves to recommend approval to the Town Council for Z17-1008, a request to amend the Land Development Code regulations in order to define the zoning area and affected property, and to clarify that the required three-fourths vote by the Town Council is rounded to the nearest whole number, as a result of the approved State of Arizona House Bill 2116 related to Legal Protests.

Planner Amy Temes began her presentation on Z17-1008, Legal Protest. She reminded the Commission that she had brought this before the Commission for initiation. She told the Commission that Governor Ducey had signed into law a Bill that modified the state statute regarding legal protests. She said that the effects of the change took place on August 9. She said they are seeking to amend the Town Land Development Code (LDC) to be consistent with State law. She shared what the LDC previously allowed for:

Previous Statute

The previous statute established that if the owners of 20% or more, either of the area or the lots:

- included in a proposed zoning change, or
- of those immediately adjacent in the rear or any side thereof extending 150 feet therefrom, or
- of those directly opposite thereto extending 150 feet from the street frontage of the opposite lots...

...file a protest in writing against a proposed rezoning, it shall not become effective except by the favorable vote of three-fourths of all members of the governing body of the municipality (6 out of 7 Town Councilmembers)

Planner Temes then shared the changes made with the new state statute:

Revised Statute

The revised statute establishes that the zoning area (protest area) now be based on the whole perimeter of the affected property (the property being rezoned). For the purpose of a Legal Protest, the zoning area consists of the area of the affected property and the area within one hundred fifty feet of the affected property, including rights-of-way. In addition, it clarified that

ownership may be based on lots, tract and condominium unit. Therefore, under the new statute, a legal protect must include:

- 20% or more of the property by area within the zoning area, and
- 20% or more of the number of lots, tracts and condominium units within the zoning area.

The new statute also modified the three-quarter vote. Previously a vote of 6 out of 7 Town Council Members was required. Now the supermajority or $\frac{3}{4}$ vote rounds to the nearest whole number. For example, a Town Council with 7 members, the vote now rounds down, to 5 rather than the previously required 6 votes.

Planner Temes shared a graphic which depicted the changes. She noted that the 20% requirement was a much harder number to achieve with the changes. She said that Staff had taken their language straight out of the state statute to create their own draft ordinance as follows:

New definitions pertaining to a Legal Protest:

“Zoning Area” - For the purpose of a Legal Protest, the area of the affected property and the area within one hundred fifty feet of the affected property subject to the proposed change including all rights-of-way.

“Affected Property” -The proposed site of the rezoning, including rights-of-way to centerline.

Proposed Zoning Code Text

Chapter I Zoning Regulations, Division 5 Administration, Article 5.7 Amendments to the Zoning Code Text, a Zoning Ordinance or the Official Zoning Map, Section 5.703 Procedures, Sub Section 5.703H Protest Procedures is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

* * *

- H. ***Protest Procedures.*** If the owners of 20 percent or more ~~either of the area of the lots included in a proposed zoning change, or of those immediately adjacent in the rear or any side thereof extending 150 feet there from, or of those directly opposite thereto extending 150 feet from the street frontage of the opposite lots,~~ **OF THE PROPERTY BY AREA AND NUMBER OF LOTS, TRACTS AND CONDOMINIUM UNITS WITHIN THE ZONING AREA OF THE AFFECTED PROPERTY** file a protest in writing against the proposed amendment, ~~if~~ **THE CHANGE** shall not become effective except by the favorable vote of three-fourths ($\frac{3}{4}$) of the members of the Town Council. **THE THREE-FOURTHS VOTE IS TO BE ROUNDED TO THE NEAREST WHOLE NUMBER.** The protest shall be filed in writing with the Town Clerk at least 5 days prior to the public hearing or any continued public hearing of the Town Council to allow time to verify the signatures on the protest.

Planner Temes also indicated that they had added to the Glossary of Terms just for clarification.

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LDC Glossary of Terms. The LDC would be amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

* * *

AFFECTED PROPERTY. THE PROPOSED SITE OF REZONING INCLUDING RIGHTS-OF-WAY TO CENTERLINE.

ZONING AREA. FOR THE PURPOSE OF A LEGAL PROTEST, THE AREA OF THE AFFECTED PROPERTY AND THE AREA WITHIN ONE HUNDRED FIFTY FEET OF THE AFFECTED PROPERTY SUBJECT TO THE PROPOSED CHANGE, INCLUDING ALL RIGHTS-OF-WAY.

Planner Temes finished her presentation and asked if the Commissioners had any comments.

Chair Sippel called for questions or comments. He stated that the Town was the applicant. He told the audience that this was a Public Hearing and asked if anyone would like to speak on this item. Seeing no one who wished to speak, he closed the Public Hearing and brought the discussion back to the dais.

Question: Joshua Oehler asked if someone didn't show up, resulting in there being only 6 instead of 7, if it would still be a $\frac{3}{4}$ vote.

Answer: Amy Temes said there are provisions in state law that take all those different scenarios into account. She said they defer to state law, so they didn't specifically list all of the different calculations. She said if a situation like Commissioner Oehler was suggesting would come up, they would just defer to state law.

Chair Sippel called for a motion. Carl Bloomfield made a **MOTION** to recommend approval to the Town Council for Z17-1008, for the reasons set forth in the Staff report, as requested; seconded by Joshua Oehler; passed unanimously.

Motion passed 7-0

ADMINISTRATIVE ITEMS

Administrative items are for the Commission/Board discussion and action. It is to the discretion of the majority of the Commission/Board regarding public input requests on any Administrative Item. Persons wishing to speak on an Administrative Item should complete a public comment form indicating the Item Number on which they wish to address. The Commission/Board may or may not accept public comment.

19. Planning Commission Minutes – Consider approval of the minutes of the Study Session and Regular Meeting of August 2, 2017.

Chair Sippel asked for a motion to approve the minutes of the August 2, 2017 Study Session and Regular Meeting. A **MOTION** was made by Vice Chair Brian Andersen to approve the Planning Commission minutes of August 2, 2017, seconded by Joshua Oehler; motion passed unanimously.

Motion passed 7-0

20. Multi-Family in Regional Commercial – Working Group Update

Catherine Lorbeer provided a brief update to let the Commission know that their small, informal working group was underway. She stated that they are taking the next step to look at draft guidelines to help implement or provide methods to the development community on how to integrate Multi-family uses in a Regional Commercial (RC) zoning district. She said that two of the Planning Commission members were participating. She then asked if they had anything to add. She said they hoped to come back at the October meeting of the Commission to initiate some LDC amendments and back at the November meeting for a Public Hearing for the Design Guidelines.

Chair Sippel asked if any of the Commissioners that were in the Study Group would like to comment.

David Cavenee said that this was a timely issue as he understands that there may be some projects on the horizon that this effort will address. He said it is a very strong committee and they have each been given assignments to do some research and come back together to draft some language that meets the intent of what they desire.

Joshua Oehler said that if there is a chance for other Commissioners to look at previous cases that have come up in RC, it would be helpful to get some additional feedback from the other Commissioners.

COMMUNICATIONS

21. Report from Chairman and Members of the Commission on current events.

Chair Sippel reminded everyone to be careful and not to roll into their left turns after the lights anymore.

22. Report from Council Liaison

Council Liaison Brigitte Peterson said that leading and lagging left-turn arrows have been a hot topic recently. Today, they have just undertaken Phase 2 of the change from lagging left-turn arrows to leading left-turn arrows. She said that 12-16 intersections made the switch today. She indicated that 6-8 intersections were switched over last week. She said there will be a couple more phases over the next few weeks. She said that some intersections will have both leading

and lagging left-turn arrows, because they are having such issues moving traffic through those intersections. Council Liaison Peterson said that the Town would be holding a 9/11 memorial event on Monday, September 11 at 9:00 a.m. She said that the event is open to the public and she encouraged everyone to attend. She also shared that during the month of September they were participating in “Gilbert Feeding Families.” She said in September they are trying to raise as much money and pounds of food as possible to meet their goal of 172,000 pounds. She said that donations were being accepted at the Municipal Center, as well as at different businesses around the Town and fire stations. She said they also have a video on the Town website and a listing of events that will be taking place. She said they will be doing a Public Safety “Drop in the Drive” so you can pull in and meet the Town’s public safety personnel when making your donation. She said that \$1 is equal to four meals. She shared that it is the Town’s desire to put all of this food into the United Food Bank so that they have food to give back to the Town of Gilbert residents. Last year, United Food Bank contributed over 200,000 pounds of food to Gilbert residents. She said that although they live in a great community, there are many people that have a need and they are trying to meet that need.

23. Report from Planning Manager on current events.

Catherine Lorbeer said that she didn’t have any items to update the Commission on, but she wanted to thank the Commission for their effort this evening.

ADJOURNMENT

With no further business before the Planning Commission, Chair Sippel adjourned the Regular Meeting at 7:32 p.m.

Kristofer Sippel, Chairman

ATTEST:

Debbie Frazey, Recording Secretary